

**IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS**

HUDSON SAVINGS BANK,  
 Plaintiff  
 v.  
 GEORGE C. AUSTIN, III, As Executor of the  
 Estate of George Clifford Austin, Jr., a/k/a  
 G. Clifford Austin, II,  
 GEORGE C. AUSTIN, III, As Heir of George  
 Clifford Austin, Jr., a/k/a G. Clifford Austin, II)  
 UNITED STATES OF AMERICA, and  
 MASSACHUSETTS DEPARTMENT OF  
 REVENUE,  
 Defendants

CIVIL ACTION NO. 05-11604-GAO  
 (Formerly Middlesex County Superior  
 Court Civil Action No. 05-01231-G)

**JOINT APPLICATION FOR ENTRY OF DEFAULT JUDGMENT AND ORDER OF  
DISTRIBUTION**

The two remaining defendants to this action, the defendant, the Commonwealth of Massachusetts Commissioner of Revenue (“Commissioner”) and the defendant, the United States of America, (“U.S.”), pursuant to the Federal Rules of Civil Procedure, Rule 55(b), jointly apply for an entry of default judgment against the defendant, George C. Austin, III, as Executor of the Estate of George Clifford Austin, Jr., a/k/a G. Clifford Austin, II and the defendant, George C. Austin, III, as Heir of George Clifford Austin, Jr., a/k/a G. Clifford Austin, II, and request the entry of an Order of Distribution in the amounts set forth herein. The distribution amounts agreed to by the Commissioner and the U.S. are attested to in the attached affidavits of George Mutascio, Assistant Chief of the Massachusetts Department of Revenue’s Collections

Bureau and John D. Carroll, Advisor in the Collection Technical Services Group, Internal Revenue Service. A proposed order of distribution is also filed herewith.

In support of this application, the Commissioner and the U.S. state that on May 2, 2007, the Court issued a Notice of Default against the defendant, George C. Austin, III for his failure to plead or otherwise defend as provided by Rule 55(a) of the Rules of Civil Procedure. Further the Return of Service against the defendant, George C. Austin, III as Heir of George C. Austin, Jr., was filed with the Middlesex Superior Court, C.A. No. 05-01231-G, on June 24, 2005 prior to the action's August 1, 2005 removal to this court by the defendant, the United States of America. The Middlesex Superior Court Civil Docket Entry for the Return of Service reflects in-hand service upon the defendant, George C. Austin, at 24 Bolton Street, Marlboro, Massachusetts 01752. The United States District Court Civil Docket for this action, Entry #7, reflects that the State Court Record was filed with the U.S. District Court on August 16, 2005 and entered on August 18, 2005. Copies of the U.S. District Court Civil Docket and the State Court Docket Sheet will be attached hereto.

The Commissioner and the U.S. also state that the Return of Service against the defendant, George C. Austin, III as Executor of the Estate of George C. Austin, Jr., was filed with the Middlesex Superior Court, C.A. No. 05-01231-G, on June 24, 2005 prior to the action's August 1, 2005 removal to this court by the defendant, the United States of America. The Middlesex Superior Court Civil Court Docket Entry for the Return of Service reflects in-hand service on the defendant, George C. Austin, at 24 Bolton Street, Marlboro, Massachusetts 01752. The United States District Court Civil Docket for this action, Entry #7, reflects that the State Court Record was filed with the U.S. District Court on August 16, 2005 and entered on August 18, 2005.

Copies of the U.S. District Court Civil Docket and the State Court Docket Sheet will be attached hereto.

WHEREFORE, the Commissioner and the U.S respectfully apply for a default judgment to enter against the defendant, George C. Austin, III as Heir to George C. Austin, Jr., and against George C. Austin, III as Executor of the Estate of George C. Austin, Jr. and request that the Court enter an Order of Distribution of the interpleader fund for the following amounts:

Commonwealth of Massachusetts Commissioner of Revenue: \$44,443.64 as of April 30, 2007 with a per diem accrual for interest and penalties of \$10.96 after April 30, 2007.

United States of America:

Balance of the Interpleader Fund  
Deposited With the Court Plus  
Interest

ALAN LEBOVIDGE  
COMMISSIONER OF REVENUE  
By his attorney,

UNITED STATES OF AMERICA  
By its attorney,

/s/ Eileen Ryan McAuliffe  
Eileen Ryan McAuliffe, BBO No. 435260  
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Massachusetts Department of Revenue  
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/s/ Robert J. Kovacev  
Robert J. Kovacev  
Trial Attorney, Tax Division  
U.S. Department of Justice  
Post Office Box No.55  
Washington, D.C. 20044  
(202) 307-6541

DATED: May 22, 2007

DATED: May 22, 2007

**CERTIFICATE OF SERVICE**

I, Eileen Ryan McAuliffe, certify that I have served a copy of the Joint Application For Entry of Default Judgment and Order of Distribution with attached exhibits and affidavits along with a proposed Order of Distribution by first-class mail, postage prepaid, upon

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/s/ Eileen Ryan McAuliffe  
Eileen Ryan McAuliffe

DATED: May 22, 2007  
235421/ERM



